

No. 21-55395

(Consolidated with Nos. 21-55404 and 21-55408)

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

LA ALLIANCE FOR HUMAN RIGHTS, et al.

Plaintiff-Appellees,

v.

CITY OF LOS ANGELES, et al.

Defendant-Appellants.

On Appeal from the United States District Court
Central District of California, Case No. 2:20-cv-02291
Hon. David O. Carter

**AMICUS CURIAE BRIEF OF WOMEN IN SKID ROW
IN SUPPORT OF INTERVENOR LOS ANGELES COMMUNITY ACTION
NETWORK**

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/s/ Akeeb Dami Animashaun

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STATEMENT OF INTEREST AND INTRODUCTION

This brief is filed by Amicus Curiae Women in Skid Row, an unincorporated association.¹ Amicus is a collective of women who live on Skid Row and are directly impacted by the District Court’s preliminary injunction, as well as stakeholders and advocates for unhoused people in Skid Row. Amicus submit this brief to explain how the unhoused residents of Skid Row—in particular Black, Indigenous, Women of Color (“BIWOC”), transgender people, queer people, gender nonconforming people, people who use drugs, and people in the sex trade—will be harmed by the court’s injunction, which categorically fails to consider the nuanced needs of marginalized people. Rather, it pushes marginalized and vulnerable people towards incarceration and mental health difficulties. It does this by imposing a half-baked solution with an arbitrary timeline that places the needs of downtown business owners over the rights and welfare of those most impacted. The community of residents in Skid Row, as well as dozens of smaller communities of unhoused people across the City—conveniently not represented as plaintiffs, but who comprise a significant portion of the

¹All parties have consented to the filing of this brief.

City’s unhoused population—will suffer irreparable harm if the injunction is not vacated.

An equitable remedy should not exacerbate the harm it attempts to remedy. Yet, this is precisely what the District Court’s injunction does. Within a multi-layered 70-page analysis of the history of racism and discrimination that caused today’s homelessness crisis in Los Angeles, the court identified a central harm flowing throughout this tragic history: the lack of “*permanent housing*” for Black people who live in Los Angeles. 1-Joint Excerpt of Record Index-59 (hereinafter “ER”) (emphasis added).

Despite correctly identifying the lack of permanent housing as the harm in need of redressing, the District Court did not issue an order that will create pathways to permanent and safe housing for unhoused Angelenos, but in fact will double down on the structures and investments that caused the harms at issue. The court effectively ordered the Defendants—the City of Los Angeles (the “City”) and the County of Los Angeles (the “County”)—to make massive financial and administrative investments in the failing shelter system.

As the court itself found, and the record makes clear, the temporary shelter system has failed unhoused people, especially BIWOC, and does not create pathways to permanent housing. Massive investment in the City’s shelter system will divert financial and administrative resources from current efforts to build permanent affordable housing. Implementation of the District Court’s order will therefore keep BIWOC, who are “significantly overrepresented,” on Skid Row trapped in the vicious cycle of bouncing between temporary and unsafe shelters and houselessness, further entrenching the racial and gender disparities that the court intended to redress.

While the district court’s intent to redress the harms caused by decades of systemic and ongoing racism and discrimination is both laudable and much welcomed, its order not only fails to do so, but will actually worsen the problem. It must be vacated.

ARGUMENT

I. THE DISTRICT COURT’S ORDER WILL EXACERBATE THE HARM IT INTENDS TO REMEDY

The District Court explained in detail the history of structural and systemic racism in Los Angeles and how that history created the

homelessness crisis that is at the center of this case. This history includes redlining, the use of eminent domain to seize and condemn homes in majority Black neighborhoods, the construction of freeways that divided and decimated Black neighborhoods, and the creation of a containment policy² that aimed to keep poor people concentrated in Skid Row. 1-ER-37-64.

Within the court’s historical analysis lay three central findings: (1) “homelessness is a byproduct of racism,” 1-ER-36-37, 129; (2) because of the “intersection of gender [discrimination and sexism] and structural racism,” BIWOC are most harmed by historic and ongoing racism and gender discrimination in housing, 1-ER-95, 96; and (3) the harm created by

²The history of the containment policy is complex. It includes, as the court noted, unhoused people and their advocates fighting for the preservation of Skid Row in the 1970s, as a means to preserve affordable housing and prevent the displacement of unhoused people. 1-ER-46. Persuaded by this argument, the City promulgated the “Blue Book” in 1976, which established the boundaries of Skid Row. The Blue Book served to preserve existing affordable housing and upgrade the existing single room occupancy hotels in Skid Row into additional safe and affordable housing so that existing residents would not be displaced. The implementation of this plan created a community of long-term residents in the hotels who use the services that consolidated in Skid Row. Due largely to the fact that these hotels are still in use today, Skid Row is currently the only neighborhood in Los Angeles that offers housing at levels that are more affordable than the standard “affordable housing,” which remains unaffordable for many.

this history and in need of redress is the lack of “permanent housing,” 1-ER-96.

These three conclusions make clear that the only way to redress the decades of systemic and institutional racism and discrimination that created the homelessness crisis is to create pathways to permanent housing for all unhoused Angelenos, but especially those most harmed by systemic racism and discrimination. The court did not, however, fashion an order that will do this. Rather, its ordered remedy will drastically expand the failing shelter system, which harms women and perpetuates the cycle of homelessness.

A. BIWOC, queer, and transgender women are most harmed by historic and ongoing racism and gender discrimination in housing.

BIWOC, who exist at the “intersection of gender [discrimination and sexism] and structural racism,” 1-ER-96, are most harmed by the decades of systemic and ongoing racism and discrimination that created the homelessness crisis in Los Angeles. The District Court’s detailed account of the history of racism and discrimination makes this clear.

The District Court found that “people of color are disproportionately affected by the [affordable housing] shortage” and “[i]n some instances,

housing discrimination in Los Angeles County is directed explicitly at Black people.” 1-ER-59. As a result, “Black Angelenos are vastly overrepresented in the homeless population,” with Black people four times more likely to become homeless than their white counterparts. 1-ER-129. This disparity continues to grow: “From 2016 to 2017, the City saw a 22% increase in the number of unhoused Black Angelenos. In that same period, the number of white Angelenos experiencing homelessness decreased by 7%.” 1-ER-37. The court therefore concluded that these statistics “squarely support” the Los Angeles Homeless Services Authority’s finding that “homelessness is a byproduct of racism.” 1-ER-36, 37.

The court also found that the health and safety impacts of the homelessness crisis in Los Angeles has a “unique impact” on women, especially BIWOC. 1-ER-95. Women are experiencing poverty at a disproportionately higher rate than men. “[U]naccompanied women (meaning women who are not unhoused as part of a family unit) [] comprise a fast-growing subgroup of the City’s homeless population: 65% of women experiencing homelessness are unaccompanied, and 80% of all unaccompanied women are unsheltered.” 1-ER-95. A steady decrease in

low-cost housing has resulted in a dramatic increase in homelessness for women. With mass evictions looming as a result of a global pandemic (365,000 to 495,000 households in Los Angeles County face imminent risk of eviction, 1-ER-51) women are even more vulnerable to homelessness, violence, and abuse.

Because of the racist and gendered aspect of homelessness in Los Angeles, BIWOC who live at the intersection of both identities are “significantly overrepresented” on Skid Row and on the streets of Los Angeles. The court found that “Black women make up only nine percent of the total female population in LA, [yet] they are more than 30 [percent] of all unhoused women” and account for over 30 percent of all unhoused women who died on the streets of LA in 2019. 1-ER-95, 96.

Other marginalized people, who Amicus represents and are members of Amicus’s collective, are likewise overrepresented in Skid Row. As the court found, “[lesbian, gay, bisexual, transgender and queer] people make up only about five percent of the U.S. population overall, [but] they make up 12% of Skid Row’s homeless population.” 1-ER-97.

B. The District Court’s order will expand the temporary shelter system, which harms BIWOC, queer, and transgender women and perpetuates the cycle of homelessness.

i. The District Court’s order will expand the shelter system at the expense of efforts to develop permanent housing.

Despite recognizing that the lack of permanent housing is at the heart of the homelessness crisis in Los Angeles, the court fashioned a remedy that will require massive financial and administrative investment in temporary shelters. This is not merely an interim solution, but one that will irreparably harm BIWOC and other unhoused people living on Skid Row by establishing lasting investments in structures that perpetuate a cycle of homelessness.

The court found that the lack of *permanent housing* is the primary harm that has resulted from historical and ongoing racism in housing and that must be redressed. 1-ER-129 (“As of January 2020, LAHSA reported that 21,509 Black people were without permanent housing in LA.”). Despite this finding, the court did not order the City or County to build or expedite its building of permanent housing. Rather, it ordered the City and County to “offer and if accepted provide shelter or housing” to all Skid Row residents within 180 days. 1-ER-141. Common sense, along with findings in the

court’s order and evidence in the record clearly show that given the limited timeframe to implement the order, the City and County will choose to offer temporary shelter rather than permanent housing to the thousands of unhoused people living in Skid Row.

The court’s order is peppered with references to, and predicated on, the fact that the City and County has not fulfilled their promise to invest in permanent affordable and safe housing for unhoused people. *See, e.g.*, 1-ER-129 (finding that “713 homeless people died between March and July 2020 alone *more than double the number* of units of housing built [by the city] under Proposition HHH in the 4 years since it was passed” (emphasis added); 1-ER-83 (“While Defendants tout their commitment to ‘build 10,000 permanent supportive housing units’ through Proposition HHH, the ongoing delays with Proposition HHH projects, failure to apply for FEMA funding, and ramp down of Project Roomkey demonstrate that the City and County lack the political courage to confront the fierce urgency of now, just when the citizens need solutions the most.”); 1-ER-45 (“We found in 2019 and 2020 that the high cost of building permanent supportive housing had slowed HHH to a crawl.”); 1-ER-36 (“The current inaction on the part of the

City and County of Los Angeles has allowed the harms of their racist legacy to continue unabated, leaving Black people—and especially Black women—effectively abandoned on the streets.”).

Given that the City and County have built less than 400 units of permanent housing for unhoused people in the four years since they launched Proposition HHH, “a \$1.2 billion bond to fund housing projects aimed at the City’s homeless population,” 1-ER-129, it is implausible to think that anything other than temporary shelters would or could be developed in order to comply with the court’s order. Professor Gary Blasi similarly concluded that “it is highly unlikely that the City and/or County would provide housing rather than shelter unless specifically ordered to do the former.” 4-ER-871.

Importantly, as Intervenor Los Angeles Community Action Network explains, the investment in temporary shelters will come with great costs: it will divert financial and administrative resources from efforts to build permanent housing and “pull vital resources away from other areas of Los Angeles, even though those resources are being deployed using proven

strategies that result in people who are unhoused actually leaving the streets.” Intervenor Opening Brief, at 38-43.

ii. Temporary shelters harm women and perpetuate the cycle of homelessness.

The shelter system has failed to provide adequate and secure housing for women. The District Court itself recognized this truth in its factual findings. It concluded that the “current service provision model is failing to meet the specific needs of women,” 1-ER-95. Crucially, the court identified temporary shelters as part of the failing model and described them as “*inhospitable places for women*.” 1-ER-65 (emphasis added).

Not only are shelters unsafe, they rarely lead to permanent housing. Most people end up back on the streets after temporary shelter programs end. Shelters are therefore not long-term solutions; rather, they are part of the revolving door that contributes to the endless cycle of homelessness and its attendant consequences, which include incarceration and negative health outcomes. Despite accurately explaining why women do not enter shelters, the District Court nevertheless crafted an order that would end up forcing women to choose between accepting unsafe and inadequate temporary shelters or rejecting the offer and facing criminalization.

a. Shelters are not safe for women.

In concluding that shelters are “inhospitable places for women,” the District Court found that “baseless family separation” was one of the harms the shelter system perpetuated on women:

Women living in shelters further detailed the stress of providers threatening to call the Department of Children and Family Services and have the women’s children taken away, as a means of forcing the women into compliance with shelter rules. While expulsion might be a reasonable remedy for rules violation, expulsion and baseless family separation are two disparate forms of discipline.

1-ER-97-98. Further, shelter programs often have rules limiting the number of children who can live in a shelter with a woman, forcing women to choose between being separated from their children while living in a shelter, living on the street with their children, or possibly returning to cohabitation with an abuser. One woman described her experience facing this cruel choice: “They asked me which three of my four kids would be joining me in the program. I told them, ‘I’d rather be homeless in a box on the street with all my kids than choose which one couldn’t stay.’” Downtown Women’s Ctr., Domestic Violence and Homeless Services Coalition: Focus Groups Report 12 (2018), <https://www.downtownwomenscenter.org/wp->

content/uploads/2018/06/DVHSC-Focus-Group-Report.pdf (cited and discussed by the District Court, ER-97) (hereinafter “Focus Group Report”).

Although the court highlighted “baseless family separation” as a harm of the shelter system, it is by no means the sole harm. Shelters are not safe places, especially for women and particularly transgender women. People in shelters often experience discrimination, verbal and emotional abuse, physical or sexual assault, increased vulnerability to COVID-19 and other illnesses, and exposure to bed bugs and other various infestations which thrive in shelters. Shared bathrooms in shelters are also unsafe for transgender and gender non-conforming people. Further, shelters take away residents’ autonomy; some shelters even lay claim to monetary resources residents receive from the government, like general relief, food stamps, or social security income. Shelters are not the solution for houselessness and are oftentimes not safer than the streets.

Indeed, due to the complex and long history of Skid Row, the community has, unlike shelters, developed special resources to serve the special needs of its members. Women who belong to this community need access to these local resources organically formed to meet their needs, because those

resources do not exist in shelters and other places. These resources include safe spaces, empowerment and assistance programs for women and health and mental health resources. These resources provide accessible, trauma-informed, and harm-reduction oriented care tailored to the needs of the community. Many in Skid Row live with complex medical conditions such as cancer, HIV/AIDS, heart failure, chronic lung conditions, and other illnesses. These conditions require not just complex medical management but expert knowledge in providing care in a trauma-informed, patient-centered, harm-reduction oriented manner. Clinics in Skid Row have developed long standing patient relationships with community members by building relationships with outreach teams, community groups, and advocates.

Organizations in the Skid Row community offer harm reduction services to unhoused people who use drugs and sex workers. Harm reduction is an evidence-based public health approach that emphasizes reducing the negative effects of drug use rather than eliminating drug use or attaining abstinence. Harm reduction saves lives. This can be accomplished through a wide range of practices and policies that include but are not limited to:

access to naloxone, the lifesaving opioid overdose reversal drug; access to clean syringes and pipes to prevent the spread of disease; access to condoms; and connection to medically assisted treatment for substance use disorder, should an individual choose to take that step. Harm reduction should be used in the same way for sex work.

b. Shelters do not help women get housed and perpetuate the cycle of homelessness.

Shelters do not help women transition into permanent housing. Instead, they often re-traumatize unhoused individuals and perpetuate the cycle of homelessness. Los Angeles county statistics demonstrably show that temporary shelters do not create pathways to permanent housing. According to Los Angeles Homeless Services Authority, 25,036 people experiencing homelessness were placed in temporary shelters in the City in 2020, including 1,441 people in Skid Row. *Of the 25,036 individuals placed in interim or emergency shelters in the City in 2020, only 3,733 people (less than 15 percent of those who were placed in temporary shelters) exited to permanent housing.* 9-ER-2202-03.

Social science research as well as the personal accounts of unhoused women explains why: shelters do not consider the individualized needs of

women who are seeking shelter services, which disempowers and re-traumatizes them; shelters often do not allow women to preserve their personal property; shelter curfew and timing rules interfere with women's ability to maintain employment; and shelter programs end without giving people money or a place to go.

The key findings from two reports by the Economic Roundtable into the needs of homeless individuals in Los Angeles is that the “diversity in age, gender, ethnicity, education, household structure, duration of homelessness, employment history, medical problems, justice system involvement, cause of homelessness, and type of assistance being sought” means that “[o]ne-size-fits-all solutions are counter-productive.” 3-ER-475.

Yet, one-size-fits-all solutions are precisely what shelters (and the District Court) prescribe. The Domestic Violence and Homeless Services Coalition's Focus Group Report found that “[t]he common sentiment felt by many of the women was one of having to fit into the model of a program, rather than the program recognizing their needs,” which re-traumatizes women. Focus Group Report, at 11. Women described their experiences in shelters as follows:

Staff had a fundamental lack of understanding of trauma. The requirements are infantilizing...it's hard to pick yourself up when you are running for your life. We are in fight or flight mode.

...

I feel I could get more help if I worked with people who understand what has happened. They say, "I understand," but they really don't. I'm trying to get help and the only thing I wanted was to come across someone who can understand and help uplift me.

Id. at 11-12.

The District Court compounds this problem by requiring women to be offered, and choose whether to accept, shelter within 90 days. 1-ER-141. While this seemingly gives women "priority" by placing them at the center of the City and County's earliest deadline to offer shelter, the injunction actually places extra burdens on women by giving them less time to make decisions for themselves about whether and under what conditions to accept such an offer. The order therefore paradoxically puts more onus on the unhoused community than it does on the City and County that has utterly failed to help them. By creating such a black-and-white timeline with no nuance or consideration for the actual needs of the unhoused community, unhoused individuals will be forced to make major life decisions on where and how they live or face incarceration and loss of their possessions.

In addition to compounding the trauma that unhoused women experience, women are often left homeless after shelter program (which, by policy, allows individuals to stay for a maximum of 90 days) ends:

One survey of unhoused individuals living on the sidewalks of skid row asked “How important are the following reasons in explaining why homeless people go through programs for helping them get off the streets, but still return to Skid Row? The most important reason was identified as a serious problem by 80% of the respondents: “Programs end without giving people money or a place to go.

3-ER-476; *see also* Declaration of Sara Short, Director of Public Policy and Community Organizing at Community Housing Partnership, 4-ER-923

(“Through our own interviews with clients or when reviewing a client’s history in the County’s Homeless Management Information System (HMIS) we very often found that they had utilized services in the past. The clients were back out on the streets because those housing services (primarily either shelters or interim housing) were temporary, due to the well-documented shortage of permanent affordable housing available to those in extreme poverty.”).

No housing program will be successful without using a Housing First model. “Housing First” is an evidence-based approach to serving people experiencing houselessness that recognizes people must first be able to

access a decent, safe place to live, that does not limit length of stay, before stabilizing in other areas of their lives. 4-ER-901. This requires the removal of barriers to accessing the housing, like requirements for sobriety or absence of criminal history. *Id.* A Housing First approach values the unhoused person's choice not only in where to live but whether to participate in services. This housing can be supportive housing or other type of re-housing, with the ultimate goal of not just putting someone in a housing unit but to make the other accommodations needed to ensure housing stability and quality of life. The core components of Housing First have even been codified into California Law. Cal. Welf. & Inst. Code § 8255.

Conversely, the devastating consequences of the District Court's order which requires immediately pushing unhoused people into temporary shelters is easily foreseeable. Unhoused people—especially BIWOC, who are disproportionately represented—will remain trapped in a vicious cycle of bouncing between temporary and unsafe shelters and homelessness, causing lasting trauma and further entrenching the racial and gender disparities that the court's injunction is intended to redress.

CONCLUSION

The district court's preliminary injunction order should be vacated.

DATED: June 11, 2021

Respectfully Submitted,

/s/ Akeeb Dami Animashaun

*Attorney for Amicus Curiae
Women in Skid Row*

CERTIFICATE OF SERVICE

I hereby certify that on June 11, 2021, I electronically filed the foregoing with the Clerk for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system. All participants in this case are registered CM/ECF users and will be served by the appellate CM/ECF system. There are no unregistered participants.

/s/ Akeeb Dami Animashaun

CERTIFICATE OF COMPLIANCE

This brief complies with the type-volume limitation of Fed. R. App.

P.32(a)(7)(B) because this brief contains 4,185 words.

I certify that this brief complied with typeface requirements of Fed. R. App. P. 32(a)(5) and the type style requirements of Fed. R. App. P. 32(a)(6) because the brief has been prepared in a proportionally-spaced typeface using Microsoft Office in 14-point Times New Roman.

/s/ Akeeb Dami Animashaun